

United States District Court

For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

INSTITUTE OF MEDICAL EDUCATION,
INC.,) Case No.: 11-CV-05755-LHK
Plaintiff,)
v.) ORDER TO SHOW CAUSE AS TO
WESTERN ASSOCIATION OF SCHOOLS) WHY CASE SHOULD NOT BE
AND COLLEGES; and DOES 1 through 10) DISMISSED FOR LACK OF
inclusive,) JURISDICTION
Defendants.)

The Court ORDERS the parties to show cause as to why this case should not be dismissed for lack of subject matter jurisdiction. Each party shall file a brief within fourteen days of this Order addressing whether this Court has subject matter jurisdiction. Briefs are limited to ten pages.

Plaintiff Institute of Medical Education has asserted that this Court has federal question jurisdiction under 28 U.S.C. § 1331 pursuant to 20 U.S.C. § 1099b(f) and the federal common law. Section 1099b(f) states:

any civil action brought by an institution of higher education seeking accreditation from, or accredited by, *an accrediting agency or association recognized by the Secretary for the purpose of this subchapter and . . . involving the denial, withdrawal, or termination of accreditation* of the institution of higher education, shall be brought in the appropriate United States district court.

20 U.S.C. § 1099b(f) (emphases added). The Court orders the parties to address whether there is jurisdiction under this statute or under the federal common law. Specifically, the parties shall

1 address (a) whether this case involves “an accrediting agency or association recognized by the
2 Secretary”; (b) whether this case involves “the denial, withdrawal, or termination of accreditation”;
3 (c) whether these provisions limit the jurisdiction conferred by the statute; and (d) whether the
4 federal common law with respect to common law due process in the educational accreditation
5 context can serve as an independent basis for federal question jurisdiction under 28 U.S.C. § 1331.

6 The Court continues the Case Management Conference and hearings on motions for
7 summary judgment set for September 19, 2013, at 1:30 p.m., to November 7, 2013, at 1:30 p.m.
8 The remainder of the case schedule is VACATED. The Court will set a revised case schedule at
9 the November 7, 2013, Case Management Conference.

10 **IT IS SO ORDERED.**

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12 Dated: September 12, 2013
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LUCY H. KOH
United States District Judge